

§ 3565.16 [Reserved]**§ 3565.17 Demonstration programs.**

To test ways to expand the availability or enhance the effectiveness of the guarantee program, or for similar purposes, the Agency may, from time to time, propose demonstration programs that use loan guarantees or interest credit. Toward this end, the Agency may enter into special partnerships with lenders, financial intermediaries, or others to carry out one or more elements of a demonstration program. Demonstration programs will be publicized by notices in the FEDERAL REGISTER.

§§ 3565.18–3565.49 [Reserved]**§ 3565.50 OMB control number.**

According to the Paperwork Reduction Act of 1995, no party is required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0575–0174.

Subpart B—Guarantee Requirements

§ 3565.51 Eligible loans and advances.

Upon approval of an application from an approved lender, the Agency will commit to providing a guarantee for a permanent loan or a combination construction and permanent loan, subject to the availability of funds. The Agency will not guarantee a construction loan that is not a combination construction and permanent loan.

§ 3565.52 Extent of the guarantee.

A guarantee of a permanent loan will be made once the project has attained a minimum level of acceptable occupancy as determined by the lender with Agency concurrence. The required occupancy level must be reached before the commitment for a loan guarantee, including any extensions, expires. For combination construction and permanent loans, the Agency will guarantee advances during the construction loan period (which can not exceed 24 months). The guarantee of construction loan advances will convert to a permanent loan guarantee once the re-

quired level of occupancy has been reached.

(a) *Maximum guarantee amount.* The maximum guarantee for a permanent loan will be 90 percent of the unpaid principal and interest of the loan. The Agency liability under any guarantee will decrease or increase, in proportion to any increase or decrease in the amount of the unpaid portion of the loan, up to the maximum amount specified in the guarantee document. The Agency will guarantee construction contracts not to exceed 90 percent of the work in place which have credit enhancements to protect the Government's guarantee. Acceptable credit enhancements include:

(1) Surety bonding or performance and payment bonding are the preferred credit enhancement;

(2) An irrevocable letter of credit acceptable to the Agency; and

(3) A pledge by the lender of acceptable collateral.

(b) *Lesser guarantee amount.* The Agency may provide a lesser guarantee based upon its evaluation of the credit quality of the loan.

(c) *Cancellation or reduction to the guarantee amount.* In cases of fraud, misrepresentation, abuse, negligence, or failure to follow the terms of the guarantee or the note, the Agency may cancel the guarantee.

[63 FR 39458, July 22, 1998, as amended at 64 FR 32372, June 16, 1999]

§ 3565.53 Guarantee fees.

As a condition of receiving a loan guarantee, the Agency will charge the following guarantee fees to the lender.

(a) *Initial guarantee fee.* The Agency will charge an initial guarantee fee equal to one percent of the guarantee amount. For purposes of calculating this fee, the guarantee amount is the product of the percentage of the guarantee times the initial principal amount of the guaranteed loan.

(b) *Annual guarantee fee.* An annual guarantee fee of at least 50 basis points (one-half percent) of the outstanding principal amount of the loan will be charged each year or portion of a year that the guarantee is in effect. This fee will be collected on January 1, of each calendar year.

§ 3565.54

(c) *Surcharge for guarantees on construction advances.* The Agency may, at its sole discretion, charge an additional fee on the portion of the loan advanced during construction. This fee will be charged in advance at the start of construction and will be announced in NOFA before loan approval.

[63 FR 39458, July 22, 1998, as amended at 64 FR 32372, June 16, 1999]

§ 3565.54 Transferability of the guarantee.

A lender must receive the Agency's approval prior to any sale or transfer of the loan guarantee.

§ 3565.55 Participation loans.

Loans involving multiple lenders are eligible for a guarantee when one of the lenders is an approved lender and agrees to act as the lead lender with responsibility for the loan under the loan guarantee agreement.

§ 3565.56 Suspension or termination of loan guarantee agreement.

A guarantee agreement will terminate when one of the following actions occurs: (In accordance with subpart H of this part, use restrictions on the property will remain if the following actions take place prior to the term of the loan and RHS determines the restrictions apply.)

(a) *Voluntary termination.* A lender and borrower voluntarily request the termination of the loan guarantee.

(b) *Agency withdrawal of guarantee.* The Agency withdraws the loan guarantee in the event of fraud, misrepresentation, abuse, negligence, or failure to meet the program requirements.

(c) *Mortgage pay-off.* The loan is paid.

(d) *Settlement of claim.* Final settlement of the claim.

§ 3565.57 Modification, extension, reinstatement of loan guarantee.

To protect its interest or further the objectives of the program, the Agency may, at its sole discretion, modify, extend, or reinstate a loan guarantee. In making this decision the Agency will consider potential losses under the program, impact on the tenants and the public reaction that may be received regarding the action. Further, the Agency may authorize a guarantee on

7 CFR Ch. XXXV (1-1-05 Edition)

a new loan that is originated as a part of a workout agreement.

§§ 3565.58-3565.99 [Reserved]

§ 3565.100 OMB control number.

According to the Paperwork Reduction Act of 1995, no party is required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0575-0174.

Subpart C—Lender Requirements

§ 3565.101 Responsibility of lenders.

A participating lender must originate and service a guaranteed loan in accordance with the regulation and program requirements throughout the life of a loan or guarantee, whichever is less. When it is in the best interests of the Agency, the Agency may permit the transfer of servicing from the originating lender to a servicer.

§ 3565.102 Lender eligibility.

An eligible lender must be a licensed business entity or HFA in good standing in the state or states where it conducts business; be approved by the Agency; and meet at least one of the criteria contained below. Lenders who are not eligible may participate in the program if they maintain a correspondent relationship with a lender who is eligible. An eligible lender must:

(a) Meet the qualifications of, and be approved by, the Secretary of HUD to make multifamily housing loans that are to be insured under the National Housing Act;

(b) Meet the qualifications and be approved by Fannie Mae or Freddie Mac to make multifamily housing loans that are to be sold to such corporations;

(c) Be a state or local HFA, or a member of the Federal Home Loan Bank system, with a demonstrated ability to underwrite, originate, process, close, service, manage, and dispose of multifamily housing loans in a prudent manner;